

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:22-cv-00068-BO

YOLANDA IRVING, individually and as the)
natural parent and guardian of J. I., JUWAN)
HARRINGTON, CYDNEEA HARRINGTON,)
KENYA WALTON, individually and as the)
natural parent and guardian of R.W., ZIYEL)
WHITLEY, DYAMOND WHITLEY,)
KAMISHA WHITLEY, NANETTA GRANT as)
the natural parent and guardian of Z. G., and)
EMANCIPATE NC., INC.)

Plaintiffs,

vs.

THE CITY OF RALEIGH, Officer OMAR I.)
ABDULLAH, Sergeant WILLIAM ROLFE,)
Officer RISHAR PIERRE MONROE, Officer)
JULIEN DAVID RATTELADE, and Officer)
MEGHAN CAROLINE GAY, JOHN and JANE)
DOE Officers 1-10, in their individual capacities,)
Chief of Police ESTELLA PATTERSON and)
City Manager MARCHELL ADAMS-DAVID,)
in their official capacities.)

Defendants.

**DEFENDANTS R.P. MONROE, J.D.
RATTELADE AND M.C. GAY'S
MEMORANDUM IN SUPPORT OF
THEIR MOTION TO DISMISS**

In support of Defendants R.P. Monroe, J.D. Rattelade, and M.C. Gay's (hereafter "Defendants") motion to dismiss corporate plaintiff, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Defendants respectfully file this memorandum of law incorporating by reference legal arguments previously submitted to the court in this case.

INCORPORATION BY REFERENCE

In the interest of judicial economy, these Defendants adopt and incorporate herein by reference legal arguments and authority previously submitted to this court by co-defendant, City

of Raleigh, in its memorandum of law (DE 60) supporting its companion motion to dismiss (DE 59).

Emancipate should be dismissed for lack of standing based on the legal authority cited in DE 60, including, but not limited to: *Simon v. E. Kentucky Welfare Rights Org.*, 426 U.S. 26, 37 (1976) (“No principle is more fundamental to the judiciary’s proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.”); *Lane v. Holder*, 703 F.3d 668 (2012) (affirming dismissal of organizational plaintiff for lack of Article III-required standing); *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972) (holding that “...a mere interest in a problem, no matter how long standing the interest or not matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization adversely affected or aggrieved...” for the purpose of standing (internal quotations omitted)); *S. Walk at Broadlands Homeowner’s Ass’n v. OpenBand at Broadlands, LLC*, 713 F. 3d 175 (4th Cir. 2013) (affirming the trial court’s dismissal for lack of standing because of, among other things, the lack of redressability for that case’s organizational plaintiff).

CONCLUSION

For the reasons set forth in DE 60, the corporate plaintiff’s claims should be dismissed pursuant to F.R.C.P. Rule 12(b)(1).

This the 30th day of June, 2022.

By: /s/ Samuel G. Thompson, Jr. .
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M.C. Gay in their individual capacities*

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MEGHAN CAROLINA GAY, and JOHN and)
JANE DOE Officers 1-10, in their individual)
capacities,)

Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2022, I electronically filed the foregoing **DEFENDANTS R.P. MONROE, J.D. RATTELADE AND M.C. GAY'S MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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I hereby certify that I have mailed the document to the following non CM/ECF participants:

Respectfully submitted,

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